



Second Amended Original Petition and Application for Ex-Parte Temporary Restraining Order and Temporary Injunction in the 275th Judicial District Court of Hidalgo County, Texas against Selene Finance, LP, U.S. Bank Trust National Association, Connie Cobb, Codilis & Moody, P.C., and ServiceLink Agency Sales and Posting, LLC (collectively, "Defendants") in an action styled, *Michael Cano and Marina Cano vs. Selene Finance, LP and U.S. Bank Trust National Association, et al.*, Cause No. C-2085-22-E (the "State Court Action"). In the State Court Action, Plaintiffs seek to, among other things, recover compensatory and exemplary damages, attorney fees, and set aside a foreclosure sale. Seer Labs, LLC ("Intervenor") filed a Plea in Intervention in the State Court Action asserting, among other things, a claim under the Texas Declaratory Judgment Act requesting the Court to determine that Intervenor is the owner of the real property that is the subject of the foreclosure sale Plaintiffs seek to set aside in the State Court Action.

2. On August 29, 2023, Debtor filed a voluntary petition seeking relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, McAllen Division ("Bankruptcy Court") in the case styled, *In Re: Michael Keith Cano, Debtor*, Bankruptcy Case No. 23-70170 ("Bankruptcy Case").

## **II.**

### **PROCEDURAL REQUIREMENTS**

3. This action is properly removed to this Court because the State Court Action is pending within this district and division. *See* 28 U.S.C. §§ 1441 and 1452; 28 U.S.C. § 124(b)(7); FED. BANKR. PROC. 9027.

4. This notice of removal is filed both within 30 days of the Debtor filing this Bankruptcy Case (28 U.S.C. § 1446(b)(1)) and within 90 days of the Debtor filing this Bankruptcy Case (Federal Bankruptcy Rule of Procedure 9027) and it is therefore timely filed.

5. The United States District Court for the Southern District of Texas, McAllen Division has jurisdiction over this action based on bankruptcy related to jurisdiction as expressly provided under 28 U.S.C. §§1334 and 1452.

6. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, this Notice of Removal is accompanied by copies of the following material:

- (a) **EXHIBIT A**: Index of Matters Being Filed;
- **Exhibit A-1**: A true and correct copy of the state court Docket Sheet;
  - **Exhibit A-2**: A true and correct copy of Plaintiffs' Original Petition and Application for Ex-Parte Temporary Restraining Order and Temporary Injunction;
  - **Exhibit A-3**: A true and correct copy of the Temporary Restraining Order;
  - **Exhibit A-4**: A true and correct copy of the Order of Referral to Pre-Hearing ADR;
  - **Exhibit A-5**: A true and correct copy of the Return of Service for Citation to Connie Cobb;
  - **Exhibit A-6**: A true and correct copy of the Return of Service for Citation to Selene Finance, LP;
  - **Exhibit A-7**: A true and correct copy of the Return of Service for Citation to U.S. Bank Trust National Association;
  - **Exhibit A-8**: A true and correct copy of Defendant ServiceLink Agency Sales and Posting, LLC's Original Answer;
  - **Exhibit A-9**: A true and correct copy of the Plea in Intervention of Seer Labs, LLC;
  - **Exhibit A-10**: A true and correct copy of Defendants' Original Answer and Affirmative Defenses to Plaintiffs' Original Petition and Application for Ex Parte Temporary Restraining Order and Temporary Injunction;
  - **Exhibit A-11**: A true and correct copy of the Order Extending Temporary Restraining Order;
  - **Exhibit A-12**: A true and correct copy of the Application for Temporary Injunction;

- **Exhibit A-13**: A true and correct copy of the Order Setting Hearing on Application for Temporary Injunction;
- **Exhibit A-14**: A true and correct copy of the Plaintiffs' Answer to Intervenor's Plea in Intervention and Plaintiffs' Counterclaims;
- **Exhibit A-15**: A true and correct copy of Plaintiffs' First Amended Original Petition and Application for Ex-Parte Temporary Restraining Order and Temporary Injunction;
- **Exhibit A-16**: A true and correct copy of the Order Resetting Hearing on Intervenor's Application for Temporary Injunction;
- **Exhibit A-17**: A true and correct copy of the Order Resetting Hearing on Intervenor's Application for Temporary Injunction;
- **Exhibit A-18**: A true and correct copy of the Order Setting Hearing [Plaintiff's Original Petition and Application for Ex-Parte Temporary Restraining Order and Temporary Injunction];
- **Exhibit A-19**: A true and correct copy of the Order Requiring Deposit of Money Into Registry of Court;
- **Exhibit A-20**: A true and correct copy of the Order Setting Status Hearing;
- **Exhibit A-21**: A true and correct copy of the Order Setting Hearing;
- **Exhibit A-22**: A true and correct copy of the Order Granting and Denying Temporary Injunctions;
- **Exhibit A-23**: A true and correct copy of the Order Setting Docket Control Conference;
- **Exhibit A-24**: A true and correct copy of the Order Setting Emergency Motion for Writ of Possession;
- **Exhibit A-25**: A true and correct copy of the Order Resetting Docket Control Conference;
- **Exhibit A-26**: A true and correct copy of the Order Setting Motion for Enforcement and Contempt;
- **Exhibit A-27**: A true and correct copy of the Order Resetting Docket Control Conference;
- **Exhibit A-28**: A true and correct copy of the Return of Service for the Notice to Show Cause to Marina Cano;

- **Exhibit A-29**: A true and correct copy of the Return of Service for the Notice to Show Cause to Michael Cano;
  - **Exhibit A-30**: A true and correct copy of the Order Granting Enforcement of Temporary Injunction; and
  - **Exhibit A-31**: A true and correct copy of Plaintiffs' Second Amended Original Petition and Application for Ex-Party Temporary Restraining Order and Temporary Injunction.
- (b) **EXHIBIT B**: List of All Counsel of Record.
- (c) **EXHIBIT C**: Civil Cover Sheet.

7. Simultaneously with the filing of this Notice of Removal, the Selene Defendants are filing a copy of the Notice of Removal in the 275th Judicial District Court of Hidalgo County, Texas, pursuant to 28 U.S.C. § 1446(d).

### **III. BASIS FOR REMOVAL**

8. The Selene Defendants were defendants in the State Court Action at the time the Bankruptcy case commenced. Ms. Cano and Debtor continue to assert claims and causes of action in the State Court Action.

9. The State Court Action and the claims and causes of action asserted therein are related to Debtor's Bankruptcy Case. *In re Wood*, 825 F. 2d 90, 93 (5th Cir. 1987) (a matter is related to pending bankruptcy if it could conceivably have any effect on the estate); *In re Majestic Energy Corp.*, 835 F.2d 87, 90 (5th Cir. 1988) (finding that action was "related to" bankruptcy where the outcome could alter the debtor's liabilities or rights, and otherwise impact administration of the estate).

10. Because this matter is related to the Bankruptcy Case, removal is proper under 28 U.S.C. §1334 and 28 U.S.C. §1452, which expressly provides for the removal of this lawsuit.

11. The Selene Defendants do not consent to entry of final orders or judgment by the Bankruptcy Court.

Respectfully submitted,

/s/ Jason L. Sanders

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**ATTORNEYS FOR DEFENDANT  
SELENE FINANCE LP AND U.S. BANK  
TRUST NATIONAL ASSOCIATION**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon all counsel of record via email and/or via U.S. Mail and Certified Mail, Return Receipt Requested pursuant to the Federal Rules of Civil Procedure on this 28th day of September, 2023.

/s/ Jason L. Sanders

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Counsel for Selene Defendants